

Montana Water Court  
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**FILED**  
05/11/2023  
Sara Calkins  
CLERK  
Montana Water Court  
STATE OF MONTANA  
By: Vicki Heiser  
43B-0373-R-2021  
Lambert, Kathryn  
22.00

MONTANA WATER COURT, YELLOWSTONE DIVISION  
YELLOWSTONE RIVER ABOVE AND INCLUDING BRIDGER CREEK BASIN  
BASIN 43B  
PRELIMINARY DECREE

\*\*\*\*\*

CLAIMANT: The Ranch at Dome Mountain, LLC

**CASE 43B-0373-R-2021**

43B 211133-00

43B 211134-00

43B 211135-00

**NOTICE OF FILING OF MASTER'S REPORT**

This Master's Report was filed with the Montana Water Court on the above stamped date. Please review this report carefully.

You may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusions of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days to be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must mail a copy of the objection to all parties on the service list found at the end of the Master's Report. The original objection and a certificate of mailing to all parties on the service list must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

**MASTER'S REPORT**

Irrigation late-filed claim 43B 211133-00, and fish and wildlife late-filed claims 43B 211134-00 and 43B 211135-00 appeared in the Preliminary Decree with multiple notice

remarks including: PROCESSING FEE INSUFFICIENT TO COVER LATE CLAIM. TOTAL AMOUNT DUE \$150.00 on each claim. The late claim filing fees were paid to the Montana Department of Natural Resources and Conservation on February 19, 2021.

On June 2, 2022 AMB West Holding Company LLC, owner of the claims at that time, filed Proposed Corrections To Resolve Issue Remarks ["Proposed Corrections"]. The Proposed Corrections is deemed a motion to amend various elements and the reservoir data. On September 7, 2022 the supporting Affidavit Of Ben Cunningham was filed. Notice of the motion to amend appeared in *The Billings Gazette* and *The Livingston Enterprise*. Notice of the motion to amend was personally served on three other identified claimants. No responses to the motion to amend were filed. The settlement documents are viewable in the Court's FullCourt Enterprise case management system.

#### APPLICABLE LAW

The Montana Water Court has jurisdiction to review a motion to amend pursuant to section 85-2-233(6), MCA.

Rule 15 M.R.Civ.P. restricts the scope of the amendments to the conduct, transaction, or occurrence set forth in the original pleading or, in other words, the "same set of operative facts as contained in the original pleading." *Sooy v. Petrolane Steel Gas, Inc.*, 218 Mont. 418, 422-423 (1985). The requested amendment "merely makes more specific that which has already been alleged." *Prentice Lumber Company v. Hukill*, 161 Mont. 8, 15 (1972).

Notice must be published by newspaper if the requested amendments "may adversely affect other water rights." Section 85-2-233(6)(a)(i), MCA.

A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content pursuant to section 85-2-227, MCA. This prima facie proof may be contradicted and overcome by other evidence that proves, by a preponderance of the evidence, that the elements of the claim do not accurately reflect the beneficial use of the water right as it existed prior to July 1, 1973. This is the burden of proof for every assertion that a claim is incorrect including for claimants objecting to their own claims. Rule 19, W.R.Adj.R.

## FINDINGS OF FACT

1. For each of these claims, the changes requested in the motion to amend arise out of the same conduct, transaction, or occurrence specified on the original Statement of Claim, are based on the same operative facts specified in the Statement of Claim, and merely make more specific that which was already claimed on the original Statement of Claim.

2. The Proposed Corrections states on page 2 and page 3:

The need for corrections proposed in this request arise primarily from an erroneous determination by the claim examiner that historic reservoirs – Middle Reservoir (aka Thelma’s Pond) and Lower Reservoir (aka Vanessa’s Pond) – are onstream. The error appears to be based on an incorrect determination that Sheep Creek flows directly into the historic reservoirs. It does not. The reservoirs are served by a ditch system and were correctly claimed as offstream reservoirs.

\* \* \* \* \*

Based on that determination, the claim examiner amended the statements of claim by removing claimed flow rates and a point of diversion, changing source names and means of diversion, and adding a period of diversion to match the claimed period of use.

The Proposed Corrections also provide more accurate reservoir data and include various other corrections.

3. For claim 43B 211133-00, the Preliminary Decree does not include a quantified flow rate but does include the standard onstream reservoir flow rate remark. The flow rate should be 1.00 CFS and the remark should be removed.

The Preliminary Decree states that the source is SHEEP CREEK. The source should be SPRING, UNNAMED TRIBUTARY OF YELLOWSTONE RIVER. The clarification remark “FISH SPRING ALSO FILLS THE RESERVOIR” should be removed. Clarification remark “ALSO KNOWN AS FISH SPRING” should be added.

The Preliminary Decree states that the point of diversion, period of diversion, and means of diversion are:

|  |            |            |            |               |
|--|------------|------------|------------|---------------|
| <u>QTRSEC</u>                              | <u>SEC</u> | <u>TWP</u> | <u>RGE</u> | <u>COUNTY</u> |
| NESWNW                                     | 10         | 7S         | 7E         | PARK          |
| Period of Diversion: APRIL 1 TO NOVEMBER 1 |            |            |            |               |
| Diversion Means: DAM                       |            |            |            |               |

Ditch Name: DEWART DITCH

Reservoir: ONSTREAM      Reservoir Name: MIDDLE RESERVOIR  
NW                      10      7S      7E      PARK  
Diversion to Reservoir: DIVERSION #1  
Dam Height: 23.00 FEET  
Depth: 20.00 FEET  
Surface Area: 39.00ACRES  
Capacity: 372.00 ACRE-FEET

The point of diversion, period of diversion, and means of diversion should be:

QTRSEC            SEC      TWP      RGE      COUNTY  
NENENW            10      7S      7E      PARK  
Period of Diversion: JANUARY 1 TO DECEMBER 31  
Diversion Means: DEVELOPED SPRING  
Ditch Name: DEWART DITCH

SESESW            3      7S      7E      PARK  
Period of Diversion: JANUARY 1 TO DECEMBER 31  
Diversion Means: DEVELOPED SPRING  
Ditch Name: DEWART DITCH

FOR THE LOWER RESERVOIR, DIVERSION TO RESERVOIR ALSO INCLUDES  
DIVERSION #2.

Reservoir: OFFSTREAM      Reservoir Name: MIDDLE RESERVOIR (THELMA'S POND)  
NW                      10      7S      7E      PARK  
Diversion to Reservoir: DIVERSION #1  
Dam Height: 20.00 FEET  
Depth: 18.00 FEET  
Surface Area: 33.00 ACRES  
Capacity: 237.60 ACRE-FEET

Reservoir: OFFSTREAM      Reservoir Name: LOWER RESERVOIR (VANESSA'S POND)  
W2NW                      10      7S      7E      PARK  
Diversion to Reservoir: DIVERSION #1  
Dam Height: 16.00 FEET  
Depth: 13.00 FEET  
Surface Area: 9.00 ACRES  
Capacity: 46.80 ACRE FEET

This claim appeared in the Preliminary Decree with the following remarks:

PROCESSING FEE INSUFFICIENT TO COVER LATE CLAIM. TOTAL AMOUNT DUE \$150.00.

CLAIM FILED LATE 11/29/1984. IN ADDITION TO BEING SUBORDINATE TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW, THIS RIGHT MAY ALSO BE SUBORDINATE TO CERTAIN PERMITS AND RESERVATIONS OF WATER. SEE SECTION 85-2-221 MCA.

THE CLAIMANT DID NOT IDENTIFY THE PERIOD OF DIVERSION FOR THIS RIGHT. A PERIOD OF DIVERSION HAS BEEN ADDED TO MATCH THE PERIOD OF USE. IF NO OBJECTIONS ARE RECEIVED TO THE PERIOD OF DIVERSION OR PERIOD OF USE, THOSE ELEMENTS WILL BE DECREED AS SHOWN ON THIS ABSTRACT AND THIS ISSUE REMARK WILL BE REMOVED FROM THIS CLAIM.

SOURCE NAME, POINT OF DIVERSION, MEANS OF DIVERSION, AND RESERVOIR RECORD WERE MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

The late claim fee has been paid, so the remark should be removed. The second remark provides notice that this is a late-filed claim. The other remarks provide notice of changes made prior to issuance of the Preliminary Decree and do not raise unresolved issues which need to be addressed. The last three remarks should be removed as having served their notice purposes.

4. For claim 43B 211134-00, the Preliminary Decree does not include a quantified flow rate but does include the standard onstream reservoir flow rate remark. The flow rate should be 1.00 CFS and the remark should be removed.

The Preliminary Decree states that the source is SHEEP CREEK. The source should be SPRING, UNNAMED TRIBUTARY OF YELLOWSTONE RIVER. The clarification remark "FISH SPRING ALSO FILLS THE RESERVOIR" should be removed. Clarification remark "ALSO KNOWN AS FISH SPRING" should be added.

The Preliminary Decree states that the point of diversion and means of diversion are:

| <u>QTRSEC</u> | <u>SEC</u> | <u>TWP</u> | <u>RGE</u> | <u>COUNTY</u> |
|---------------|------------|------------|------------|---------------|
| NESWNW        | 10         | 7S         | 7E         | PARK          |

Diversion Means: DAM

Reservoir: ONSTREAM      Reservoir Name: MIDDLE RESERVOIR  
NW                      10      7S      7E      PARK  
Diversion to Reservoir: DIVERSION #1  
Dam Height: 23.00 FEET  
Depth: 20.00 FEET  
Surface Area: 39.00ACRES  
Capacity: 372.00 ACRE-FEET

The point of diversion and means of diversion should be:

| <u>QTRSEC</u> | <u>SEC</u> | <u>TWP</u> | <u>RGE</u> | <u>COUNTY</u> |
|---------------|------------|------------|------------|---------------|
| NENENW        | 10         | 7S         | 7E         | PARK          |

Diversion Means: DEVELOPED SPRING

Ditch Name: DEWART DITCH

|        |   |    |    |      |
|--------|---|----|----|------|
| SESESW | 3 | 7S | 7E | PARK |
|--------|---|----|----|------|

Diversion Means: DEVELOPED SPRING

Ditch Name: DEWART DITCH

FOR THE LOWER RESERVOIR, DIVERSION TO RESERVOIR ALSO INCLUDES  
DIVERSION #2.

Reservoir: OFFSTREAM      Reservoir Name: MIDDLE RESERVOIR (THELMA'S POND)

|    |    |    |    |      |
|----|----|----|----|------|
| NW | 10 | 7S | 7E | PARK |
|----|----|----|----|------|

Diversion to Reservoir: DIVERSION #1

Dam Height: 20.00 FEET

Depth: 18.00 FEET

Surface Area: 33.00 ACRES

Capacity: 237.60 ACRE-FEET

Reservoir: OFFSTREAM      Reservoir Name: LOWER RESERVOIR (VANESSA'S POND)

|      |    |    |    |      |
|------|----|----|----|------|
| W2NW | 10 | 7S | 7E | PARK |
|------|----|----|----|------|

Diversion to Reservoir: DIVERSION #1

Dam Height: 16.00 FEET

Depth: 13.00 FEET

Surface Area: 9.00 ACRES

Capacity: 46.80 ACRE FEET

This claim appeared in the Preliminary Decree with the following remarks:

PROCESSING FEE INSUFFICIENT TO COVER LATE CLAIM. TOTAL AMOUNT DUE \$150.00.

CLAIM FILED LATE 11/29/1984. IN ADDITION TO BEING SUBORDINATE TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW, THIS RIGHT MAY ALSO BE SUBORDINATE TO CERTAIN PERMITS AND RESERVATIONS OF WATER. SEE SECTION 85-2-221 MCA.

THE CLAIMANT DID NOT IDENTIFY THE PERIOD OF DIVERSION FOR THIS RIGHT. A PERIOD OF DIVERSION HAS BEEN ADDED TO MATCH THE PERIOD OF USE. IF NO OBJECTIONS ARE RECEIVED TO THE PERIOD OF DIVERSION OR PERIOD OF USE, THOSE ELEMENTS WILL BE DECREED AS SHOWN ON THIS ABSTRACT AND THIS ISSUE REMARK WILL BE REMOVED FROM THIS CLAIM.

SOURCE NAME, POINT OF DIVERSION, MEANS OF DIVERSION, AND RESERVOIR RECORD WERE MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS

WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

CLAIMED VOLUME EXCEEDS CAPACITY OF RESERVOIR PLUS EVAPORATIVE LOSSES. THE CLAIMED VOLUME CAN BE CONTESTED BY PROPER OBJECTION. IF NO OBJECTIONS ARE FILED TO THIS CLAIM THE VOLUME WILL BE DECREED AS CLAIMED, AND THIS REMARK WILL BE REMOVED FROM THE CLAIM.

The late claim fee has been paid, so the remark should be removed. The second remark provides notice that this is a late-filed claim. The other remarks provide notice of changes made prior to issuance of the Preliminary Decree and do not raise unresolved issues which need to be addressed. The last four remarks should be removed as having served their notice purposes.

5. For claim 43B 211135-00, the Preliminary Decree does not include a quantified flow rate but does include the standard onstream reservoir flow rate remark. The flow rate should be 3.75 CFS and the remark should be removed.

The Preliminary Decree states that the point of diversion and means of diversion are:

| <u>QTRSEC</u> | <u>SEC</u> | <u>TWP</u> | <u>RGE</u> | <u>COUNTY</u> |
|---------------|------------|------------|------------|---------------|
| NESWNW        | 10         | 7S         | 7E         | PARK          |

Diversion Means: DAM

Reservoir: ONSTREAM      Reservoir Name: MIDDLE RESERVOIR  
NENW                      10      7S      7E      PARK  
Diversion to Reservoir: DIVERSION #1  
Dam Height: 23.00 FEET  
Depth: 20.00 FEET  
Surface Area: 39.00 ACRES  
Capacity: 372.00 ACRE-FEET

The point of diversion and means of diversion should be:

| <u>QTRSEC</u> | <u>SEC</u> | <u>TWP</u> | <u>RGE</u> | <u>COUNTY</u> |
|---------------|------------|------------|------------|---------------|
| SWSESW        | 2          | 7S         | 7E         | PARK          |

Diversion Means: HEADGATE  
Ditch Name: RIGLER DITCH

Reservoir: OFFSTREAM      Reservoir Name: MIDDLE RESERVOIR (THELMA'S POND)  
NW                      10      7S      7E      PARK  
Diversion to Reservoir: DIVERSION #1  
Dam Height: 20.00 FEET  
Depth: 18.00 FEET

Surface Area: 33.00 ACRES  
Capacity: 237.60 ACRE-FEET

Reservoir: OFFSTREAM      Reservoir Name: LOWER RESERVOIR (VANESSA'S POND)  
W2NW                      10      7S      7E      PARK  
Diversion to Reservoir: DIVERSION #1  
Dam Height: 16.00 FEET  
Depth: 13.00 FEET  
Surface Area: 9.00 ACRES  
Capacity: 46.80 ACRE FEET

This claim appeared in the Preliminary Decree with the following remarks:

PROCESSING FEE INSUFFICIENT TO COVER LATE CLAIM. TOTAL AMOUNT DUE \$150.00.

CLAIM FILED LATE 11/29/1984. IN ADDITION TO BEING SUBORDINATE TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW, THIS RIGHT MAY ALSO BE SUBORDINATE TO CERTAIN PERMITS AND RESERVATIONS OF WATER. SEE SECTION 85-2-221 MCA.

THE CLAIMANT DID NOT IDENTIFY THE PERIOD OF DIVERSION FOR THIS RIGHT. A PERIOD OF DIVERSION HAS BEEN ADDED TO MATCH THE PERIOD OF USE. IF NO OBJECTIONS ARE RECEIVED TO THE PERIOD OF DIVERSION OR PERIOD OF USE, THOSE ELEMENTS WILL BE DECREED AS SHOWN ON THIS ABSTRACT AND THIS ISSUE REMARK WILL BE REMOVED FROM THIS CLAIM.

SOURCE NAME, POINT OF DIVERSION, MEANS OF DIVERSION, AND RESERVOIR RECORD WERE MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

CLAIMED VOLUME EXCEEDS CAPACITY OF RESERVOIR PLUS EVAPORATIVE LOSSES. THE CLAIMED VOLUME CAN BE CONTESTED BY PROPER OBJECTION. IF NO OBJECTIONS ARE FILED TO THIS CLAIM THE VOLUME WILL BE DECREED AS CLAIMED, AND THIS REMARK WILL BE REMOVED FROM THE CLAIM.

The late claim fee has been paid, so the remark should be removed. The second remark provides notice that this is a late-filed claim. The other remarks provide notice of changes made prior to issuance of the Preliminary Decree and do not raise unresolved issues which need to be addressed. The last four remarks should be removed as having served their notice purposes.

#### CONCLUSIONS OF LAW

1. The notice requirements for a motion to amend claim specified in section 85-2-233(6), MCA have been met.
2. Each of the requested amendments "merely makes more specific that which has

already been alleged.” *Prentice Lumber Company v. Hukill*, 161 Mont. 8, 15 (1972).

3. The motion to amend is sufficient to contradict and overcome the prima facie claims as they appeared in the Preliminary Decree.

#### RECOMMENDATIONS

Based upon the above, this Master recommends that the Court grant the motion to amend these claims and make the changes specified in the Findings of Fact to correct the Preliminary Decree for this Basin. A Post Decree Abstract of Water Right Claim for each claim is served with this Report to confirm the recommended changes have been made in the state's centralized record system.

#### **ELECTRONICALLY SIGNED AND DATED BELOW**

#### Service Via Email:

Peter G. Scott  
Peter G. Scott, Law Offices, PLLC  
682 Ferguson, Suite 4  
Bozeman, MT 59718  
(406) 585-3295  
peter@scott-law.com  
office@scott-law.com

**POST DECREE**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK**  
**BASIN 43B**

**Water Right Number:** 43B 211133-00 STATEMENT OF CLAIM

**Version:** 4 -- POST DECREE

**Status:** ACTIVE

**Late Claim:** B

**Owners:** THE RANCH AT DOME MOUNTAIN LLC  
% DMS NATURAL RESOURCES LLC  
602 S FERGUSON AVE STE 2  
BOZEMAN, MT 59718

**Priority Date:** AUGUST 31, 1967

**Enforceable Priority Date:** JUNE 30, 1973

CLAIM FILED LATE 11/29/1984 . AS MANDATED BY SECTION 85-2-221(3), MCA, THIS CLAIM IS SUBORDINATE, AND THEREFORE JUNIOR, TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW.

**Type of Historical Right:** USE

**Purpose (use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 1.00 CFS

**Volume:** 420.00 AC-FT

**Climatic Area:** 4 - MODERATELY LOW

**Maximum Acres:** 156.00

**Source Name:** SPRING, UNNAMED TRIBUTARY OF YELLOWSTONE RIVER

**Source Type:** GROUNDWATER  
ALSO KNOWN AS FISH SPRING

**Point of Diversion and Means of Diversion:**

| <u>ID</u> | <u>Govt Lot</u> | <u>Qtr Sec</u> | <u>Sec</u> | <u>Twp</u> | <u>Rge</u> | <u>County</u> |
|-----------|-----------------|----------------|------------|------------|------------|---------------|
| 1         |                 | NENENW         | 10         | 7S         | 7E         | PARK          |

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** DEVELOPED SPRING

**Ditch Name:** DEWART DITCH

|   |  |        |   |    |    |      |
|---|--|--------|---|----|----|------|
| 2 |  | SESESW | 3 | 7S | 7E | PARK |
|---|--|--------|---|----|----|------|

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** DEVELOPED SPRING

**Ditch Name:** DEWART DITCH

FOR THE LOWER RESERVOIR, DIVERSION TO RESERVOIR ALSO INCLUDES DIVERSION #2

**Reservoir:** OFFSTREAM **Reservoir Name:** MIDDLE RESERVOIR (THELMA'S POND)

| <u>Govt Lot</u> | <u>Qtr Sec</u> | <u>Sec</u> | <u>Twp</u> | <u>Rge</u> | <u>County</u> |
|-----------------|----------------|------------|------------|------------|---------------|
|                 | NW             | 10         | 7S         | 7E         | PARK          |

**Diversion to Reservoir:** DIVERSION # 1

**Dam Height:** 20.00 FEET

**Depth:** 18.00 FEET

**Surface Area:** 33.00 ACRES

**Capacity:** 237.60 ACRE-FEET

**Reservoir:** OFFSTREAM **Reservoir Name:** LOWER RESERVOIR (VANESSA'S POND)

| <u>Govt Lot</u> | <u>Qtr Sec</u> | <u>Sec</u> | <u>Twp</u> | <u>Rge</u> | <u>County</u> |
|-----------------|----------------|------------|------------|------------|---------------|
|                 | W2NW           | 10         | 7S         | 7E         | PARK          |

**Diversion to Reservoir:** DIVERSION # 1

**Dam Height:** 16.00 FEET

**Depth:** 13.00 FEET

**Surface Area:** 9.00 ACRES

**Capacity:** 46.80 ACRE-FEET

**Period of Use:** APRIL 1 TO NOVEMBER 1

**Place of Use:**

| <u>ID</u>     | <u>Acres</u> | <u>Govt Lot</u> | <u>Qtr Sec</u> | <u>Sec</u> | <u>Twp</u> | <u>Rge</u> | <u>County</u> |
|---------------|--------------|-----------------|----------------|------------|------------|------------|---------------|
| 1             | 60.00        |                 | E2NE           | 20         | 7S         | 7E         | PARK          |
| 2             | 25.00        |                 | W2SE           | 9          | 7S         | 7E         | PARK          |
| 3             | 5.00         |                 | S2NE           | 16         | 7S         | 7E         | PARK          |
| 4             | 40.00        |                 | S2NW           | 16         | 7S         | 7E         | PARK          |
| 5             | 10.00        |                 | S2NENW         | 16         | 7S         | 7E         | PARK          |
| 6             | 16.00        |                 | W2SWNE         | 16         | 7S         | 7E         | PARK          |
| <b>Total:</b> | 156.00       |                 |                |            |            |            |               |

**Remarks:**

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

211133-00

211134-00

**POST DECREE**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK**  
**BASIN 43B**

**Water Right Number:** 43B 211134-00 STATEMENT OF CLAIM

**Version:** 4 -- POST DECREE

**Status:** ACTIVE

**Late Claim:** B

**Owners:** THE RANCH AT DOME MOUNTAIN LLC  
% DMS NATURAL RESOURCES LLC  
602 S FERGUSON AVE STE 2  
BOZEMAN, MT 59718

**Priority Date:** AUGUST 31, 1967

**Enforceable Priority Date:** JUNE 30, 1973

CLAIM FILED LATE 11/29/1984 . AS MANDATED BY SECTION 85-2-221(3), MCA, THIS CLAIM IS SUBORDINATE, AND THEREFORE JUNIOR, TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW.

**Type of Historical Right:** USE

**Purpose (use):** FISH AND WILDLIFE

**Flow Rate:** 1.00 CFS

**Volume:** 730.00 AC-FT

**Source Name:** SPRING, UNNAMED TRIBUTARY OF YELLOWSTONE RIVER

**Source Type:** GROUNDWATER  
ALSO KNOWN AS FISH SPRING

**Point of Diversion and Means of Diversion:**

| <u>ID</u> | <u>Govt Lot</u> | <u>Qtr Sec</u> | <u>Sec</u> | <u>Twp</u> | <u>Rge</u> | <u>County</u> |
|-----------|-----------------|----------------|------------|------------|------------|---------------|
| 1         |                 | NENENW         | 10         | 7S         | 7E         | PARK          |

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** DEVELOPED SPRING

**Ditch Name:** DEWART DITCH

|   |  |        |   |    |    |      |
|---|--|--------|---|----|----|------|
| 2 |  | SESESW | 3 | 7S | 7E | PARK |
|---|--|--------|---|----|----|------|

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** DEVELOPED SPRING

**Ditch Name:** DEWART DITCH

FOR THE LOWER RESERVOIR, DIVERSION TO RESERVOIR ALSO INCLUDES DIVERSION #2

**Reservoir:** OFFSTREAM **Reservoir Name:** MIDDLE RESERVOIR (THELMA'S POND)

| <u>Govt Lot</u> | <u>Qtr Sec</u> | <u>Sec</u> | <u>Twp</u> | <u>Rge</u> | <u>County</u> |
|-----------------|----------------|------------|------------|------------|---------------|
|                 | NW             | 10         | 7S         | 7E         | PARK          |

**Diversion to Reservoir:** DIVERSION # 1

**Dam Height:** 20.00 FEET

**Depth:** 18.00 FEET

**Surface Area:** 33.00 ACRES

**Capacity:** 237.60 ACRE-FEET

**Reservoir:** OFFSTREAM **Reservoir Name:** LOWER RESERVOIR (VANESSA'S POND)

| <u>Govt Lot</u> | <u>Qtr Sec</u> | <u>Sec</u> | <u>Twp</u> | <u>Rge</u> | <u>County</u> |
|-----------------|----------------|------------|------------|------------|---------------|
|                 | W2NW           | 7          | 7S         | 7E         | PARK          |

**Diversion to Reservoir:** DIVERSION # 1

**Dam Height:** 16.00 FEET

**Depth:** 13.00 FEET

**Surface Area:** 9.00 ACRES

**Capacity:** 46.80 ACRE-FEET

**Period of Use:** JANUARY 1 TO DECEMBER 31

**Place of Use:**

| <u>ID</u> | <u>Acres</u> | <u>Govt Lot</u> | <u>Qtr Sec</u> | <u>Sec</u> | <u>Twp</u> | <u>Rge</u> | <u>County</u> |
|-----------|--------------|-----------------|----------------|------------|------------|------------|---------------|
| 1         |              |                 | NENW           | 10         | 7S         | 7E         | PARK          |
| 2         |              |                 | NWNW           | 10         | 7S         | 7E         | PARK          |
| 3         |              |                 | SWNW           | 10         | 7S         | 7E         | PARK          |

**Remarks:**

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

211133-00

211134-00

**POST DECREE**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK**  
**BASIN 43B**

**Water Right Number:** 43B 211135-00 STATEMENT OF CLAIM

**Version:** 4 -- POST DECREE

**Status:** ACTIVE

**Late Claim:** B

**Owners:** THE RANCH AT DOME MOUNTAIN LLC  
% DMS NATURAL RESOURCES LLC  
602 S FERGUSON AVE STE 2  
BOZEMAN, MT 59718

**Priority Date:** MAY 31, 1963

**Enforceable Priority Date:** JUNE 30, 1973

CLAIM FILED LATE 11/29/1984 . AS MANDATED BY SECTION 85-2-221(3), MCA, THIS CLAIM IS SUBORDINATE, AND THEREFORE JUNIOR, TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW.

**Type of Historical Right:** USE

**Purpose (use):** FISH AND WILDLIFE

**Flow Rate:** 3.75 CFS

**Volume:** 2,700.00 AC-FT

**Source Name:** SHEEP CREEK

**Source Type:** SURFACE WATER

**Point of Diversion and Means of Diversion:**

| <u>ID</u> | <u>Govt Lot</u> | <u>Qtr Sec</u> | <u>Sec</u> | <u>Twp</u> | <u>Rge</u> | <u>County</u> |
|-----------|-----------------|----------------|------------|------------|------------|---------------|
| 1         |                 | SWSESW         | 2          | 7S         | 7E         | PARK          |

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** HEADGATE

**Ditch Name:** RIGLER DITCH

**Reservoir:** OFFSTREAM **Reservoir Name:** MIDDLE RESERVOIR (THELMA'S POND)

| <u>Govt Lot</u> | <u>Qtr Sec</u> | <u>Sec</u> | <u>Twp</u> | <u>Rge</u> | <u>County</u> |
|-----------------|----------------|------------|------------|------------|---------------|
|                 | NW             | 10         | 7S         | 7E         | PARK          |

**Diversion to Reservoir:** DIVERSION # 1

**Dam Height:** 20.00 FEET

**Depth:** 18.00 FEET

**Surface Area:** 33.00 ACRES

**Capacity:** 237.60 ACRE-FEET

**Reservoir:** OFFSTREAM **Reservoir Name:** LOWER RESERVOIR (VANESSA'S POND)

| <u>Govt Lot</u> | <u>Qtr Sec</u> | <u>Sec</u> | <u>Twp</u> | <u>Rge</u> | <u>County</u> |
|-----------------|----------------|------------|------------|------------|---------------|
|                 | W2NW           | 10         | 7S         | 7E         | PARK          |

**Diversion to Reservoir:** DIVERSION # 1

**Dam Height:** 16.00 FEET

**Depth:** 13.00 FEET

**Surface Area:** 9.00 ACRES

**Capacity:** 46.80 ACRE-FEET

**Period of Use:** JANUARY 1 TO DECEMBER 31

**Place of Use:**

| <u>ID</u> | <u>Acres</u> | <u>Govt Lot</u> | <u>Qtr Sec</u> | <u>Sec</u> | <u>Twp</u> | <u>Rge</u> | <u>County</u> |
|-----------|--------------|-----------------|----------------|------------|------------|------------|---------------|
| 1         |              |                 | NENW           | 10         | 7S         | 7E         | PARK          |
| 2         |              |                 | NWNW           | 10         | 7S         | 7E         | PARK          |
| 3         |              |                 | SWNW           | 10         | 7S         | 7E         | PARK          |